

1 ROBERT BENNETT
2 Avenida Paseo de la Reforma 27, Interior 911
3 Colonia Tabacalaera
4 Ciudad de Mexico, Mexico 06030
5 Tel: 52-55-5035-8515

6 Defendant

FILED

FEB - 5 2019

SUSAN Y. SOONG
CLERK, U.S. DISTRICT COURT
NORTH DISTRICT OF CALIFORNIA

7 UNITED STATES DISTRICT COURT
8 FOR THE DISTRICT OF NORTHERN CALIFORNIA

9 JADEADA GARLIP, et al.,

10 Case No. 18-CV-06917-WHO

11 Plaintiff,

12 v.
13 ROBERT BENNETT,
14 Defendants.

DEFENDANT ROBERT BENNETT'S
OBJECTIONS TO REPORT AND
RECOMMENDATION TO REMAND
DATED JANUARY 15th 2019

Date: January 25th 2019

15 Defendant Robert Bennett objects to the Court's "Report and Recommendation to Remand"
16 dated January 15th 2019 (ECF No. 7) predicated on the contention that opposing counsel was
17 negligent in mailing moving papers in that the postage for international mail was deficient and caused
18 the moving papers to arrive in Mexico City after December 27th 2018. As such, Defendant was
19 deprived an opportunity to timely oppose the motion. (*see attached Exhibit A*)

20 Secondly, co-defendant Bernie Mendoza joins in the removal notice. Co-defendant Bernie
21 Mendoza states in the attached **Consent to Removal** that he is domiciled partially in Mexico and
22 partially in the state of Nevada. The attached **Exhibit A** and **Consent to Removal** illustrate that the
23 requirements of complete diversity pursuant to 28 USC § 1332 are satisfied – *plain as day*.

24
25 Dated: January 25th 2019

Respectfully submitted,

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Robert Bennett, Defendant

CONSENT OF CO-DEFENDANT BERNIE MENDIA OF NOTICE OF REMOVAL

I, Bernie Mendia, am a co-defendant in the matter captioned as *Garlip v. Bennett* that corresponds with Case No. 18-CV-06917-WHO. I consent to Robert Bennett's notice of removal (ECF No. 1). For the record, I am domiciled partly in Mexico and partly in the state of Nevada. I am also a natural-born Mexican citizen.

I have not made an appearance in the matter and would encourage opposing counsel to seek the requisite authorizations from the Mexican Secretariat of Foreign Relations prior to proceeding with this action. In the event that opposing counsel wishes to disregard the mandatory service requirements defined in the *Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters* [commonly known as the *Hague Service Convention*], then opposing counsel is invited to move forward in the direction of seeking a default judgment and proceeding to a prove-up hearing.

For the record, plaintiff Lillian Phaeton wrote a handwritten note to Robert Bennett in December of 2017 stating that she has enjoyed living at the underlying property noted in the complaint at bar and unequivocally stated that looks forward to living there – which directly and materially contradicts the allegations in the complaint at bar. A true and correct copy of said handwritten note is attached to this CONSENT as **Exhibit B**. It would be interesting to see how opposing counsel and his clients present their case at a prove-up hearing considering that no tenant has complied with California Civil Code § 1942 or paid any rent in over a year and Ms. Phaeton looks forward to living at the property indefinitely – *which indicates that the property is habitable.*

Lastly - to clarify the distinction between the terms “attorney-at-law” and “attorney-in-fact”, opposing counsel is encouraged to review California Probate Code §§ 4000- 4545. There have been numerous misrepresentations made by opposing counsel in regards to my role in the underlying property. A review of the relevant sections of the California Probate Code would assist opposing counsel and his clients understand the distinctions between “attorney-at-law” and “attorney-in-fact”.

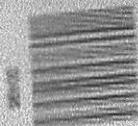
Dated: January 25th 2019

Bernie Mendia

Exhibit A

The Law Office of Andrew Scarno
2120 University Avenue
Suite #200
Berkeley, CA 94704

Albert Bennett
Av. Paseo de la Reforma 17, Edificio 9
Avenida
Colonia Tabacalera
Ciudad de México, México, 06030



POSTAGE PAID
\$2.97

Exhibit B

12/1/2017

Merry Xmas Robert?

Thanks for 17 years here
at 1432 12th Avenue, Apt 4

Let me know if there's ever any
way I can help in the upkeep or
improvement of our happy home.
Looking forward to the next 17! JG

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2 **PROOF OF SERVICE**
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5 On January 25th 2019, I Juan Lopez, deposited at an office of the Correos de Mexico a copy of
6 "Defendant Robert Bennett's Objections to Report and Recommendations to Remand Dated January
7 15th 2019" for mailing with postage prepaid to opposing counsel directed to the following address:

8 Erik Bauman
9 Law Offices of Andrew Serros
10 2120 University Avenue, # 730
11 Berkeley, California 94704-1026 USA
12

13 Dated: January 25th 2019

14 _____
15 /s/
16 Juan Lopez
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